



## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

|   |                                |
|---|--------------------------------|
| Requestor Name and Address:   | MFDR Tracking #: M4-09-6581-01 |
| TEXAS ORTHOPEDIC HOSPITAL<br>3701 KIRBY DR SUITE 1288<br>HOUSTON TX 77098 | DWC Claim #:                   |
|   | Injured Employee:              |
| Respondent Name and Box #:  | Date of Injury:                |
| ACE AMERICAN INSURANCE CO<br>Box #: 15                                    | Employer Name:                 |
|   | Insurance Carrier #:           |

### PART II: REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "This claim should have been paid in accordance with 28 T.A.C. §134.403, which states, "(1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier amount shall be multiplied by (a) 200 percent..." This is the formula to be used absent certain circumstances that do not apply to the present case."

**Amount in Dispute:** \$1,300.26

### PART III: RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "1. The issue in dispute is: Payment Per-Fee Guidelines 3. The following documentation supports my position: request for additional payment."

### PART IV: SUMMARY OF FINDINGS

| Date(s) of Service | Disputed Services            | Calculations  | Amount in Dispute | Amount Due |
|--------------------|------------------------------|---|-------------------|------------|
| 03/03/2008         | Hospital Outpatient Services | $\$3,086.12 \times 200\% = \$6,172.24 + \$4.14$ (fee payment schedule)<br>(\$4,403.02 paid by respondent) | \$1,300.26        | \$1,300.26 |
| <b>Total Due:</b>  |                              |   |                   | \$1,300.26 |

### PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, effective for medical services provided in an outpatient acute care hospital on or after March 1, 2008, set out the reimbursement guidelines for hospital outpatient services.

This request for medical fee dispute resolution was received by the Division on March 3, 2009.

- For the services involved in this dispute, the respondent reduced or denied payment with reason code:
  - 45 (900-021) – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement. Any network reduction is in accordance with the network referenced above.
  - 58 (729-001) – Treatment was deemed by the payer to have been rendered in an inappropriate or invalid place of service. This service is not reimbursable in a hospital outpatient setting.
  - 97 (243 ) – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated. This procedure has been included in another procedure performed on the same day.

- W1 (595-001) – Workers Compensation state fee schedule adjustment. The reimbursement amount is based on the Medicare reimbursement plus the percentage increase specified by the state.
2. According to the explanation of benefits, the services in dispute were paid using a contracted fee arrangement. Tex. Lab. Code Ann. §413.011(d-3) states that the division may request copies of each contract under which fees are being paid, and goes on to state that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division. On October 26, 2010 the division requested a copy of the contract between the network and the health care provider. The carrier failed to provide a copy of the requested documentation. For that reason, the disputed health care will be reviewed in accordance with 28 Tex. Admin. Code Section §134.403.
  3. Division rule at 28 TAC §134.403(e) states, in pertinent part, that "Regardless of billed amount, reimbursement shall be:
    - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code 413.011; or
    - (2) if no contracted fee schedule exists that complies with Labor Code 413.011, the maximum allowable reimbursement (MAR) amount under subsection (f), including any applicable outlier payment amounts and reimbursement for implantables;"
  4. Pursuant to Division rule at 28 TAC §134.403(f), "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*. The following minimal modifications shall be applied.
    - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
      - (A) 200 percent; unless
      - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent."
  5. Under the Medicare Outpatient Prospective Payment System (OPPS), all services are classified into groups called Ambulatory Payment Classifications (APCs). Services in each APC are clinically similar and require similar resources. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Within each APC, payment for ancillary and supportive items and services is packaged into payment for the primary independent service. Packaged services are considered integral to the primary paid service and are not separately reimbursed. An OPPS payment status indicator is assigned to each HCPCS code. The status indicator for each HCPCS code is shown in OPPS Addendum B, and a full list of status indicators and their definitions is published in Addendum D1 of the OPPS proposed and final rules each year, both of which are publicly available from the Centers for Medicare and Medicaid services.
  6. According to 134.402(h) for medical services provided in an outpatient acute care hospital, but not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2) of this section and for which Medicare reimburses using other Medicare fee Schedule, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. Review of the UB-04 documents the requestor billed CPT Code 85014. These codes are considered Status A codes. Status A codes are paid under a fee schedule or with a prospectively pre-determined rate. Status A codes are paid according to Tx. Admin. Code Section §134.203. The Requestor also billed CPT Codes 82435, 84132, 84520, 82947, and 84295. These codes are also considered Status A codes; however, according to CMS policy the charge for these codes are bundled for payment.
  7. Upon review of the documentation submitted by the Requestor and Respondent, the Division finds that:
    - (1) No documentation was found to support a contractual agreement between the parties to this dispute;
    - (2) MAR can be established for these services; and
    - (3) Separate reimbursement for implantables was NOT requested by the requestor.
  8. Consequently, reimbursement will be calculated in accordance with Division rule at 28 TAC §134.403(f)(1)(A) as follows:

| APC        | Outlier Amount | Separate reimbursement for implantables WAS NOT requested under Rule §134.403 | APC X 200% | Fee Schedule (CMS x DWC conversion factor) | Less amount paid by Respondent | Additional amount due Requestor |
|------------|----------------|---|------------|--|--------------------------------|---------------------------------|
| \$3,086.12 | \$0.00         | \$0.00  | \$6,176.38 | \$4.14                                     | \$4,403.02                     | \$1,773.36                      |

Based upon the documentation submitted by the parties and in accordance with Texas Labor Code §413.031(c), the Division concludes that the requestor is due additional payment. As a result, the amount ordered is \$1,300.26.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code §413.011(a-d), §413.031 and §413.0311  
28 Texas Administrative Code §133.305, §133.307, §134.203, §134.403  
Texas Government Code, Chapter 2001, Subchapter G

#### **PART VII: DIVISION DECISION**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,300.26 plus accrued interest per Division rule at 28 TAC §134.130 and §413.019 (if applicable), due within 30 days of receipt of this order.

#### **DECISION/ORDER:**

|                      |  |          |
|----------------------|--|----------|
| _____                | _____                                  | 02/17/11 |
| Authorized Signature | Medical Fee Dispute Resolution Officer | Date     |

#### **PART VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**